

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**CAMPAIGN FOR SOUTHERN
EQUALITY; FAMILY EQUALITY
COUNCIL; DONNA PHILLIPS; JANET
SMITH; KATHRYN GARNER; SUSAN
HROSTOWSKI; JESSICA HARBUCK;
BRITTANY ROWELL; TINORA
SWEETEN-LUNSFORD; and KARI
LUNSFORD,**

Plaintiffs,

vs.

**The MISSISSIPPI DEPARTMENT OF
HUMAN SERVICES and RICHARD
BERRY, in his official capacity as its
Executive Director; PHIL BRYANT, in his
official capacity as Governor of the State of
Mississippi; JIM HOOD, in his official
capacity as Mississippi Attorney General,**

Defendants.

**CIVIL ACTION
NO. 3:15-cv-00578-DPJ-FKB**

**DECLARATION OF JANET SMITH IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

JANET SMITH, declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I have personal knowledge of the facts stated herein. I am submitting this declaration in support of Plaintiffs' Motion for Preliminary Injunction.

Background

2. I was born in Mississippi and have lived here my entire life. I now live in Rankin County with my wife, Donna Phillips, and our daughter, H.M.S.P.

3. I hold a Master's Degree in Education from Mississippi State University and have worked for the Mississippi Department of Mental Health for more than 20 years in the Information Technology department.

4. Donna has served with distinction in various positions in the military, including as a company commander of a unit in the Mississippi Army National Guard responsible for the immediate response to Hurricane Katrina. She is currently a Captain in the Mississippi Air National Guard.

Our Family and Our Life in Mississippi

5. Donna and I have been together as a couple since 1995. We were legally married in Maryland on August 1, 2013.

6. Like many couples, Donna and I felt a strong desire to be parents. In 2007, Donna gave birth to our daughter H.M.S.P. The day our daughter was born was one of the happiest days of our lives.

7. Donna and I could not be more proud of H.M.S.P. She is now eight years old and is smart, outspoken, creative, strong, hard-working, loving, and sensitive. She just started the third grade at our local public school where Donna and I are both active members of the Parent-Teacher Organization.

8. H.M.S.P. is very engaged and active both in school and extra-curricular activities. She has been involved in the Girl Scouts for the past three years, has been taking guitar lessons for the last six months, and recently began tennis lessons. Most of all, though, she loves art, and painting in particular, which she enjoys doing with my mother, who is an artist.

9. Since the day H.M.S.P. was born, Donna and I have shared equal parenting responsibilities. When she was a baby, we both changed countless diapers and did countless middle-of-the-night feedings. Donna and I both care for H.M.S.P. when she is sick, nurture her, encourage her, discipline her, help her grow in our Christian faith, and love her as only a parent can love a child.

10. We only share parenting duties unequally when Donna is called to perform military duties away from home. During those times, I care for H.M.S.P. on my own.

11. Both Donna and I have been parents to H.M.S.P. since her birth, but only Donna is H.M.S.P.'s parent under the law. Because of the Mississippi Adoption Ban, only Donna's name is listed on H.M.S.P.'s birth certificate and only Donna is H.M.S.P.'s legal mother.

My Attempts to Adopt H.M.S.P.

12. Of course, I have wanted to be H.M.S.P.'s legal parent since even before H.M.S.P. was born. And, although the nine words of the Mississippi Adoption Ban are clear, Donna and I nevertheless made several attempts to start the adoption process anyway.

13. Because of the Mississippi Adoption Ban, however, we were not even able to take the first step of having a home study performed. Donna and I contacted several social work agencies, as well as two private licensed clinical social workers. Each told us that they would not do a home study for a gay couple trying to adopt in Mississippi because it would be "useless" because of the Mississippi Adoption Ban. Indeed, several social workers told us that they would not even consider performing a home study for us because they feared it would endanger their organizations' standing with the State of Mississippi.

H.M.S.P. and I Are Harmed Because I Am Not Able to Adopt Her

14. H.M.S.P. and I both have been harmed in significant ways by the fact that the Mississippi Adoption Ban has prevented me from adopting H.M.S.P.

15. Since becoming a parent, I have experienced many of the fears and frustrations that are common to all parents. Like all parents, I always worry about my daughter's health and safety. Because I am not H.M.S.P.'s legal parent, however, I also have the added worry about what might happen if there is an emergency when Donna is away on military duty or otherwise unavailable and a quick decision needs to be made by a parent.

16. I also constantly worry that H.M.S.P. might be taken away from me if Donna were to be killed or seriously injured. No parent should have to face that anxiety.

17. If something happens to me before H.M.S.P. is an adult, she may not be eligible for my social security or other survivor benefits because she is not legally my daughter.

18. During a period when Donna was unemployed several years ago, I was not able to cover H.M.S.P. on my health insurance because she is not legally my daughter. Instead, we had to pay more money, at a time when we could least afford it, to buy separate insurance for her.

19. There are many other ways, too, that my family and I are burdened by the Mississippi Adoption Ban. When registering H.M.S.P. for our public school each year, for example, Donna and I have to fill out a significant amount of extra paper work to show that H.M.S.P. actually lives in our home because I am not her legal parent.

20. Under the Mississippi Adoption Ban, Donna and I have had to work harder to raise our wonderful, well-adjusted daughter. We have raised H.M.S.P. in a loving, stable home—which makes her luckier than a lot of kids in Mississippi, who unfortunately all do not get to grow up in that kind of environment. But the Mississippi Adoption Ban has sent the

message to H.M.S.P. that her family does not deserve to be treated like other families and she does not deserve to be treated like other children, who happen to have opposite-sex parents. Although H.M.S.P. is only eight, she understood that message loud and clear. We have had to work doubly-hard to make sure that she understands that her family is as good as everyone else's.

21. The Mississippi Adoption Ban has forced us to have to explain to our daughter the hard truth that our home state discriminates against our family. Donna and I both love our country and Mississippi deeply. We have chosen to devote our professional lives to public service and an important part of the values we are teaching our daughter is love of country. It saddens us that we have had to teach H.M.S.P. that Mississippi treats our family and families like ours unfairly for no good reason at all.

Executed on August 26, 2015.



Janet Smith